

Serial No. : 09/870,235
Filed : May 30, 2001

IN THE DRAWINGS:

The applicant has submitted concurrently herewith a request for approval of drawing changes in which a "POINT MEASURING DEVICE" legend in Figure 3 is changed to --POSITION MEASURING DEVICE-- to be consistent with the description. The applicant has also submitted a replacement sheet for the amended drawing.

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REMARKS

In the office action, the examiner rejected Claims 1-5, 8-9, 12-14, 18-19 and 22 under 35 U.S.C. 102(e) as being anticipated by Meunier (U.S. Patent Application Publication No. 2002/0186144). The examiner rejected Claims 10-11 and 20-21 under 35 U.S.C. 103(a) as being unpatentable over Meunier (U.S. Patent Application Publication No. 2002/0186144). The examiner rejected Claims 6, 15, 17, 23 and 25 under 35 U.S.C. 103(a) as being unpatentable over Meunier (U.S. Patent Application Publication No. 2002/0186144) in view of Schofield (U.S. Patent Application Publication No. 2002/0003571). The examiner rejected Claims 7, 16 and 24 under 35 U.S.C. 103(a) as being unpatentable over Meunier (U.S. Patent Application Publication No. 2002/0186144) in view of Gelvin (U.S. Patent Application Publication No. 2002/0003571).

The applicant respectfully disagrees with the basis of the rejection by the examiner. All of the rejections under 35 U.S.C. 102(e) and 103(a) by the examiner are relied upon the cited Meunier reference. It should be noted that the filing date of the cited Meunier reference is May 1, 2002 which is almost one year after the filing date, May 30, 2001, of the present application. To be qualified as prior art under 35 U.S.C. 102(e), U.S. filing date of a cited reference must be before the invention (filing date) of the subject application. Although the cited Meunier reference claims the benefit of the foreign filing date which is May 1, 2001, i.e., twenty nine days prior to the filing date of the present

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application, such a foreign priority is not applicable to 35 U.S.C. 102(e). See MPEP 2136.03 which states that "reference's foreign filing date under 35 U.S.C. 119(a)-(d) and (f) cannot be used as the 35 U.S.C. 102(e) reference date". Please also note that the cited Meunier reference is not an application based on an international (PCT) application.

Therefore, the cited Meunier reference should be disqualified as prior art. Because all of the rejections under 35 U.S.C. 102(e) and 103(a) by the examiner are derived from the incorrect interpretation of the patent law, the applicant respectfully requests that rejections be withdrawn.

In this opportunity, the applicant has amended the claims to more clearly define the invention. The applicant has also amended the specification to correct minor errors therein and to more clearly describe the invention. This is to verify that no new matter has been introduced by the amendment.

Also in this opportunity, the applicant has submitted concurrently herewith a request for approval of drawing changes in which a "POINT MEASURING DEVICE" legend in Figure 3 is changed to -POSITION MEASURING DEVICE-- to be consistent with the description. The applicant has also submitted a replacement sheet for the amended drawings.

In view of the foregoing, the applicant believes that Claims 1-25 are in condition for allowance, and accordingly, the applicant

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respectfully requests that the present application be allowed and
passed to issue.

Respectfully submitted,

MURAMATSU & ASSOCIATES

Dated:

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FIG. 3

